[6450-01-P]

DEPARTMENT OF ENERGY

[Case Number 2020-025, EERE-2017-BT-WAV-0041]

Energy Conservation Program: Extension of Waiver to AHT Cooling Systems GmbH and AHT Cooling Systems USA Inc. from the Department of Energy Commercial Refrigerator, Freezer, and Refrigerator-Freezer Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notification of extension of waiver.

SUMMARY: The U.S. Department of Energy ("DOE") is granting a waiver extension (Case No. 2020-025) to AHT Cooling Systems GmbH and AHT Cooling Systems USA Inc. ("AHT") from specified portions of the DOE Commercial Refrigerators, Freezers, and Refrigerator-Freezers (collectively "commercial refrigeration equipment" or "CRE") test procedure for determining the energy consumption of the specified AHT CRE basic models. Under this extension, AHT is required to test and rate the specified basic models in accordance with the alternate test procedure specified in the Order.

DATES: The Extension of Waiver is effective on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The Extension of Waiver will terminate upon the compliance date of any future amendment to the test procedure for CRE located in 10 CFR part 431, subpart C, appendix B that addresses the issues presented in this waiver. At such time, AHT must use the relevant test procedure for the specified basic models of CRE for any testing to demonstrate compliance with standards, and any other representations of energy use.

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. E-mail: *AS_Waiver_Requests@ee.doe.gov*.

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SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR 431.401(g)), DOE gives notice of the issuance of an Extension of Waiver as set forth below. The Extension of Waiver extends the Decision and Order granted to AHT on October 30, 2018 (83 FR 54581, "October 2018 Decision and Order") to include the AHT basic models specified in this waiver, as requested by AHT on November 12, 2020.[1] AHT must test and rate the specifically identified CRE basic models in accordance with the alternate test procedure specified in the October 2018 Decision and Order. AHT's representations concerning the energy consumption of the specified basic models must be based on testing according to the provisions and restrictions in the alternate test procedure set forth in the October 2018 Decision and Order, and the representations must fairly disclose the test results. Distributors, retailers, and

[1] AHT's request is available at *https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0041*. The specified basic models are: IBIZA 100 (U) NAM-F, IBIZA 145 (U) NAM-F, IBIZA 210 (U) NAM-F, MALTA 145 (U) NAM-F, MALTA 185 (U) NAM-F, MANHATTAN XL 175 (U) NAM-F, MANHATTAN XL 210 (U) NAM-F, MIAMI 145 (U) NAM-F, MIAMI XL EC 185 (U) NAM-F, MIAMI 210 (U) NAM-F, MIAMI 250 (U) NAM-F, PARIS 145 (U) NAM-F, PARIS EC 185 (U) NAM-F, PARIS 210 (U) NAM-F, PARIS 250 (U) NAM-F, SYDNEY 175 (U) NAM-F, SYDNEY 210 (U) NAM-F, SYDNEY EC 213 (U) NAM-F, SYDNEY EC 223 (U) NAM-F, SYDNEY 230 (U) NAM-F, SYDNEY 250 (U) NAM-F, SYDNEY XL 175 (U) NAM-F, SYDNEY XL 210 (U) NAM-F, SYDNEY XL 250 (U) NAM-F, MONTREAL SLIM 175 (U) NAM-F, MONTREAL SLIM 210 (U) NAM-F, MONTREAL SLIM 250 (U) NAM-F, MONTREAL SLIM PUSH 175 (U) NAM F, MONTREAL SLIM PUSH 210 (U) NAM-F, MONTREAL SLIM PUSH 250 (U) NAM-F, MONTREAL XL 175 (U) NAM-F, MONTREAL XL 210 (U) NAM-F, MONTREAL XL 250 (U) NAM-F, MONTREAL XL EC 185 (U) NAM-F, MONTREAL XL EC 210 (U) NAM-F, MONTREAL XL EC PUSH 185 (U) NAM-F, MONTREAL XL EC PUSH 210 (U) NAM-F, MONTREAL XL PUSH 175 (U) NAM-F, MONTREAL XL PUSH 210 (U) NAM-F, and MONTREAL XL PUSH 250 (U) NAM-F.

private labelers are held to the same requirements when making representations regarding the energy consumption of this equipment. (42 U.S.C. 6314(d))

DOE makes decisions on waiver extensions for only those basic models specifically set out in the request, not future models that may be manufactured by the petitioner. AHT may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional basic models of CRE. Alternatively, if appropriate, AHT may request that DOE extend the scope of a waiver to include additional basic models employing the same technology as the basic models set forth in the original petition consistent with 10 CFR 431.401(g).

Case Number 2020-025
Extension of Waiver

I. Background and Authority

The Energy Policy and Conservation Act, as amended ("EPCA"),[2] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C[3] of EPCA established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency for certain types of industrial equipment. This equipment includes Commercial Refrigerators, Freezers, and Refrigerator-Freezers (collectively "commercial refrigeration equipment" or "CRE"), the focus of this document. (42 U.S.C. 6311(1)(E))

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that equipment (42

[2] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116-260 (Dec. 27, 2020).
[3] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated as Part A-1.

U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s))

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered equipment. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect the energy efficiency, energy use or estimated annual operating cost of covered equipment during a representative average use cycle and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C.6314(a)(2)) The test procedure for CRE is contained in 10 CFR part 431, subpart C, appendix B - Amended Uniform Test Method for the Measurement of Energy Consumption of Commercial Refrigerators, Freezers, and Refrigerator-Freezers ("Appendix B").

Any interested person may submit a petition for waiver from DOE's test procedure requirements. 10 CFR 431.401(a)(1). DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy or water consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 431.401(f)(2). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *Id.*

A petitioner may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in

the original petition. 10 CFR 431.401(g). DOE will publish any such extension in the *Federal Register*. *Id*.

II. Request for an Extension of Waiver: Assertions and Determinations

On October 30, 2018, DOE issued a Decision and Order in Case Number 2017-007 granting AHT a waiver to test its AHT basic models specified in that Order using an alternate test procedure. 83 FR 54581 ("October 2018 Decision and Order"). AHT stated that the basic models listed in the petition do not have a defrost cycle when operated in freezer mode, and therefore cannot be tested under Appendix B, which references defrosts for the start of the test period and door-opening period.

Based on its review, including the information provided by AHT, DOE determined that the CRE basic models specified in the October 2018 Decision and Order contain a design characteristic that prevents testing the basic models according to the prescribed test procedure at Appendix B. 83 FR 54581, 54582. The October 2018 Decision and Order specifies that AHT must test and rate the subject basic models according to Appendix B, but with the test period starting after the unit achieves steady state conditions and the door-opening period starting 3 hours after the start of the test period. *Id* at 83 FR 54583.

On November 12, 2020, AHT submitted a request to extend the scope of the waiver, Case Number 2020-025, to specified additional AHT basic models.[4] AHT stated that these basic models have the same characteristics as the models covered by the existing waiver.

[4] The specified basic models are: IBIZA 100 (U) NAM-F, IBIZA 145 (U) NAM-F, IBIZA 210 (U) NAM-F, MALTA 145 (U) NAM-F, MALTA 185 (U) NAM-F, MANHATTAN XL 175 (U) NAM-F, MANHATTAN XL 210 (U) NAM-F, MIAMI 145 (U) NAM-F, MIAMI XL EC 185 (U) NAM-F, MIAMI 210 (U) NAM-F, MIAMI 250 (U) NAM-F, PARIS 145 (U) NAM-F, PARIS EC 185 (U) NAM-F, PARIS 210 (U) NAM-F, PARIS 250 (U) NAM-F, SYDNEY 175 (U) NAM-F, SYDNEY 210 (U) NAM-F, SYDNEY EC 213 (U) NAM-F, SYDNEY EC 223 (U) NAM-F, SYDNEY 230 (U) NAM-F, SYDNEY 250 (U) NAM-F, SYDNEY XL 175 (U) NAM-F, SYDNEY XL 210 (U) NAM-F, SYDNEY XL 250 (U) NAM-F, MONTREAL SLIM 175 (U) NAM-F, MONTREAL SLIM 210 (U) NAM-F, MONTREAL SLIM 250 (U) NAM-F, MONTREAL SLIM PUSH 175 (U) NAM F, MONTREAL

DOE has reviewed AHT's waiver extension request and determined that the CRE basic models identified in AHT's request incorporate the same design characteristics as those basic models covered under the waiver in Case Number 2017-007 (i.e., lack of defrost cycle when operated in freezer mode), which prevents testing the basic models according to the prescribed test procedure at Appendix B. DOE also determined that the alternate procedure specified in Case Number 2017-007 will allow for the accurate measurement of the energy use of the CRE basic models identified by AHT in its waiver extension request, while alleviating the testing problems associated with AHT's implementation of DOE's applicable commercial refrigeration equipment test procedure for the specified basic models.

III. Order

After careful consideration of all the material submitted by AHT in this matter, it is **ORDERED** that:

(1) AHT must, as of the date of publication of this Extension of Waiver in the *Federal Register*, test and rate the following AHT brand commercial freezer basic models (which do not have defrost cycle capability when operated in freezer mode) with the alternate test procedure as set forth in paragraph (2):

Brand	Basic Model
AHT	IBIZA 100 (U) NAM-F
AHT	IBIZA 145 (U) NAM-F

SLIM PUSH 210 (U) NAM-F, MONTREAL SLIM PUSH 250 (U) NAM-F, MONTREAL XL 175 (U) NAM-F, MONTREAL XL 210 (U) NAM-F, MONTREAL XL 250 (U) NAM-F, MONTREAL XL EC 185 (U) NAM-F, MONTREAL XL EC 210 (U) NAM-F, MONTREAL XL EC PUSH 185 (U) NAM-F, MONTREAL XL EC PUSH 210 (U) NAM-F, MONTREAL XL PUSH 175 (U) NAM-F, MONTREAL XL PUSH 210 (U) NAM-F, and MONTREAL XL PUSH 250 (U) NAM-F.

AHT	IBIZA 210 (U) NAM-F
AHT	MALTA 145 (U) NAM-F
AHT	MALTA 185 (U) NAM-F
AHT	MANHATTAN XL 175 (U) NAM-F
AHT	MANHATTAN XL 210 (U) NAM-F
AHT	MIAMI 145 (U) NAM-F
AHT	MIAMI XL EC 185 (U) NAM-F
AHT	MIAMI 210 (U) NAM-F
AHT	MIAMI 250 (U) NAM-F
AHT	PARIS 145 (U) NAM-F
AHT	PARIS EC 185 (U) NAM-F
AHT	PARIS 210 (U) NAM-F
AHT	PARIS 250 (U) NAM-F
AHT	SYDNEY 175 (U) NAM-F
AHT	SYDNEY 210 (U) NAM-F
AHT	SYDNEY EC 213 (U) NAM-F
AHT	SYDNEY EC 223 (U) NAM-F
AHT	SYDNEY 230 (U) NAM-F
AHT	SYDNEY 250 (U) NAM-F
AHT	SYDNEY XL 175 (U) NAM-F
AHT	SYDNEY XL 210 (U) NAM-F
AHT	SYDNEY XL 250 (U) NAM-F
AHT	MONTREAL SLIM 175 (U) NAM-F
AHT	MONTREAL SLIM 210 (U) NAM-F
AHT	MONTREAL SLIM 250 (U) NAM-F

AHT	MONTREAL SLIM PUSH 175 (U) NAM F
AHT	MONTREAL SLIM PUSH 210 (U) NAM-F
AHT	MONTREAL SLIM PUSH 250 (U) NAM-F
AHT	MONTREAL XL 175 (U) NAM-F
AHT	MONTREAL XL 210 (U) NAM-F
AHT	MONTREAL XL 250 (U) NAM-F
AHT	MONTREAL XL EC 185 (U) NAM-F
AHT	MONTREAL XL EC 210 (U) NAM-F
AHT	MONTREAL XL EC PUSH 185 (U) NAM-F
AHT	MONTREAL XL EC PUSH 210 (U) NAM-F
AHT	MONTREAL XL PUSH 175 (U) NAM-F
AHT	MONTREAL XL PUSH 210 (U) NAM-F
AHT	MONTREAL XL PUSH 250 (U) NAM-F

(2) The alternate test procedure for the AHT basic models referenced in paragraph (1) of this Order is the test procedure for CRE prescribed by DOE at 10 CFR part 431, subpart C, appendix B, except that the test period shall be selected as detailed. All other requirements of Appendix B and DOE's regulations remain applicable.

The test shall begin when steady state conditions occur (per ASHRAE Standard 72– 2005, Section 3, definitions, which defines steady state as "the condition where the average temperature of all test simulators changes less than 0.2 °C (0.4 °F) from one 24-hour period or refrigeration cycle to the next"). Additionally, the door-opening requirements shall be as defined in ASHRAE 72–2005 Section 7.2, with the exception that the eight-hour period of door openings shall begin three hours after the start of the test. Ambient temperature, test simulator temperatures, and all other data shall be

recorded at three-minute intervals beginning at the start of the test and throughout the 24-hour testing period.

(3) *Representations*. AHT may not make representations about the energy use of a basic model listed in paragraph (1) of this Order for compliance, marketing, or other purposes unless that basic model has been tested in accordance with the provisions of paragraph (2) of this Order and such representations fairly disclose the results of such testing.

(4) This Extension of Waiver shall remain in effect according to the provisions of 10 CFR 431.401.

(5) This Extension of Waiver is issued on the condition that the statements, representations, and documentation provided by AHT are valid. If AHT makes any modifications to the controls or capabilities (e.g., adding automatic defrost to freezer mode) of these basic models, the waiver will no longer be valid and AHT will either be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may rescind or modify this Extension of Waiver (and/or the underlying Order issued in Case Number 2017-007) at any time if it determines the factual basis underlying the petition for extension of waiver (and/or the underlying Order issued in Case Number 2017-007) is incorrect, or the results from the alternate test procedure are unrepresentative of a basic model's true energy consumption characteristics. 10 CFR 431.401(k)(1). Likewise, AHT may request that DOE rescind or modify the Extension of Waiver (and/or the underlying Order issued in Case Number 2017-007) if AHT discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 431.401(k)(2).

(6) AHT remains obligated to fulfill all applicable requirements set forth at 10 CFR part 429.

Signing Authority

This document of the Department of Energy was signed on July 17, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on July 19, 2021.

Treena V. Garrett,
Federal Register Liaison Officer,
U.S. Department of Energy.

[FR Doc. 2021-15578 Filed: 7/21/2021 8:45 am; Publication Date: 7/22/2021]